

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 00-6273-CR-HUCK

UNITED STATES OF AMERICA,
Plaintiff,

vs.

AERIAL HERNANDEZ,
Defendants.

MOTION FOR RELEASE OF PROBATION FILE

Comes now the Defendant by and through undersigned counsel and moves this Honorable Court to issue an order authorizing the release of the defendant's probation file and all documents therein which were used by Probation Officer Thomas Felasco to prepare the Defendant's Presentence Investigation Report and as grounds in support states:

1. The Defendant is charged with Capital Homicide in which the State of Florida is seeking the death penalty. The Miami Dade State Attorney is prosecuting the Defendant in case F04-019972.

2. Below signed counsel was appointed as Second Chair to prepare for a penalty phase if the Defendant is convicted.

3. Below signed counsel has learned that the Probation file may contains records from various institutions that as of this date have been destroyed and are no longer available to the Defendant. These include records from Charter Hospital which filed bankruptcy and has destroyed all records.

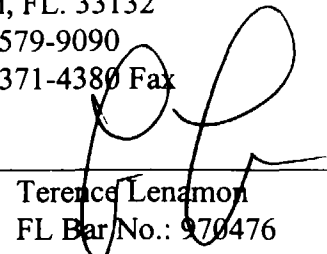
4. These records contain information that arise to a level of statutory mitigation and are material.

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/ 8x

WHEREFORE the Defendant respectfully requests that the Court grant his motion.

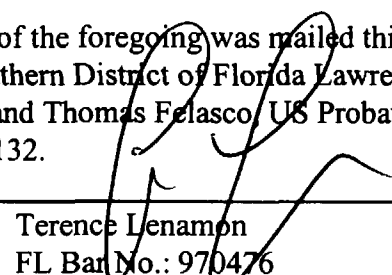
Respectfully submitted,

Swartz & Lenamon
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Miami, FL. 33132
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(305) 371-4380 Fax

By: 
Terence Lenamon
FL Bar No.: 970476

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 26th day of July to Assistant United States Attorney for the Southern District of Florida Lawrence LaVecchio (Miami), 99 N.E. 4th Street, Miami, FL 33132 and Thomas Felasco, US Probation Officer 300 NE 1st Avenue, Room 315, Miami, Florida 33132.

By: 
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_____ /

ORDER

THIS CAUSE having come before the Court, on Defendant's **MOTION**, and the Court having heard argument of counsel and being otherwise advised in the premises, it is hereupon,

ORDERED AND ADJUDGED that said Motion be, and the same is hereby

GRANTED, authorizing the release of the defendant's probation file and all documents therein which were used by Probation Officer Thomas Felasco to prepare the Defendant's Presentence Investigation Report

DONE AND ORDERED in Court, at Miami Dade County, Florida, this _____ day
of August, 2005

By: _____
Judge Paul C. Huck